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# **PRELIMINARY DRAFT**

## **No. 3123**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2014 GENERAL ASSEMBLY**

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### **DIGEST**

**Citations Affected:** IC 12-7-2; IC 12-17.2; IC 31-33-26-16.

**Synopsis:** Child Care and Development Fund voucher program eligibility. Requires licensure as a child care home or a child care center as the sole criterion for eligibility for participation in the federal Child Care and Development Fund voucher program. Makes conforming amendments. Repeals superseded provisions.

**Effective:** July 1, 2014.



A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-7-2-28.9 IS REPEALED [EFFECTIVE JULY  
2 1, 2014]. ~~Sec. 28.9: "Child care program" for purposes of~~  
3 ~~IC 12-17.2-3.5; has the meaning set forth in IC 12-17.2-3.5-1.2.~~

4 SECTION 2. IC 12-7-2-76.8 IS REPEALED [EFFECTIVE JULY  
5 1, 2014]. ~~Sec. 76.8: "Employed", "employee", "employment", or~~  
6 ~~"employs", for purposes of IC 12-17.2-3.5; has the meaning set forth in~~  
7 ~~IC 12-17.2-3.5-1.3.~~

8 SECTION 3. IC 12-17.2-2-1, AS AMENDED BY P.L.287-2013,  
9 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2014]: Sec. 1. The division shall perform the following duties:

11 (1) Administer the licensing and monitoring of child care centers  
12 or child care homes in accordance with this article.

13 (2) Ensure that a national criminal history background check of  
14 the following is completed through the state police department  
15 under IC 10-13-3-39 before issuing a license:

16 (A) An applicant for a license.

17 (B) An employee or volunteer of an applicant who has direct  
18 contact with a child who is receiving child care from the  
19 applicant.

20 (C) If an applicant is applying for a license to operate a child  
21 care home, the following:

22 (i) The applicant's spouse.

23 (ii) The applicant's household members who are at least  
24 eighteen (18) years of age or who are less than eighteen (18)  
25 years of age but have previously been waived from juvenile  
26 court to adult court.

27 (3) Ensure that a national criminal history background check of  
28 the following is completed through the state police department  
29 under IC 10-13-3-39 before registering a child care ministry:

30 (A) An applicant for a child care ministry registration.

31 (B) An employee or volunteer of an applicant who has direct



- 1 contact with a child who is receiving child care from the  
 2 applicant.
- 3 (4) Provide for the issuance, denial, suspension, and revocation of  
 4 licenses.
- 5 (5) Cooperate with governing bodies of child care centers and  
 6 child care homes and their staffs to improve standards of child  
 7 care.
- 8 (6) Prepare at least biannually a directory of licensees with a  
 9 description of the program capacity and type of children served  
 10 that will be distributed to the legislature, licensees, and other  
 11 interested parties as a public document.
- 12 (7) Deposit all license application fees collected under section 2  
 13 of this chapter in the division of family resources child care fund  
 14 established by section 3 of this chapter.
- 15 (8) Require each child care center or child care home to record  
 16 proof of a child's date of birth before accepting the child. A child's  
 17 date of birth may be proven by the child's original birth certificate  
 18 or other reliable proof of the child's date of birth, including a duly  
 19 attested transcript of a birth certificate.
- 20 (9) Provide an Internet site through which members of the public  
 21 may obtain the following information:
- 22 (A) Information concerning violations of this article by a  
 23 licensed child care provider, including:
- 24 (i) the identity of the child care provider;
- 25 (ii) the date of the violation; and
- 26 (iii) action taken by the division in response to the violation.
- 27 (B) Current status of a child care provider's license.
- 28 (C) Other relevant information.
- 29 The Internet site may not contain the address of a child care home  
 30 or information identifying an individual child. However, the site  
 31 may include the county and ZIP code in which a child care home  
 32 is located.
- 33 (10) Provide or approve training concerning safe sleeping  
 34 practices for children to
- 35 ~~(A) a provider who operates a child care program in the~~  
 36 ~~provider's home as described in IC 12-17.2-3.5-5.5(b); and~~  
 37 ~~(B) a child care home licensed under IC 12-17.2-5,~~  
 38 including practices to reduce the risk of sudden infant death  
 39 syndrome.
- 40 SECTION 4. IC 12-17.2-3.3-2, AS ADDED BY P.L.126-2007,  
 41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2014]: Sec. 2. (a) The committee on child care is established.  
 43 (b) The committee consists of the following voting members:
- 44 (1) Two (2) members of the house of representatives appointed by  
 45 the speaker of the house of representatives. Members appointed  
 46 under this subdivision may not be members of the same political



party.

(2) Two (2) members of the senate appointed by the president pro tempore of the senate. Members appointed under this subdivision may not be members of the same political party.

(3) The director of the division of family resources or the director's designee.

(4) The commissioner of the department of workforce development or the commissioner's designee.

(5) The secretary of commerce appointed under IC 5-28-3-4 or the secretary's designee.

(6) The state fire marshal or the state fire marshal's designee.

(7) The state superintendent of public instruction or the superintendent's designee.

(8) The commissioner of the state department of health or the commissioner's designee.

(9) One (1) representative of a private business that employs less than fifty (50) employees, appointed by the president pro tempore of the senate.

(10) One (1) representative of a private business that employs more than one hundred (100) employees, appointed by the speaker of the house of representatives.

(11) One (1) individual who is a child care advocate and who does not operate or administer a child care ~~program (as defined in IC 12-17.2-3.5-1.2)~~, **home or child care center**, appointed by the president pro tempore of the senate.

(c) The president pro tempore of the senate shall appoint a member described in subsection (b)(2) as chairperson of the committee in even-numbered years.

(d) The speaker of the house of representatives shall appoint a member described in subsection (b)(1) as chairperson of the committee in odd-numbered years.

SECTION 5. IC 12-17.2-3.5-0.1 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 0.1: The amendments made to section 10 of this chapter by P.L.131-2002 apply to a provider that begins receiving voucher payments after June 30, 2002.~~

SECTION 6. IC 12-17.2-3.5-1 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 1: (a) This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article. However, except as provided in section 4(b) of this chapter, a child care provider that is licensed under IC 12-17.2-4 or IC 12-17.2-5 is considered to be in compliance with this chapter.~~

~~(b) If a school age child care program that is:~~

~~(1) described in IC 12-17.2-2-8(10); and~~

~~(2) located in a school building;~~

~~is determined to be in compliance with a requirement of this chapter by another state regulatory authority; the school age child care program is~~



considered to be in compliance with the requirement under this chapter.

SECTION 7. IC 12-17.2-3.5-1.2 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 1-2: As used in this chapter, "child care program" refers to the activities provided for children during the time that children are in the care of a provider.

SECTION 8. IC 12-17.2-3.5-1.3 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 1-3: As used in this chapter, "employed", "employee", "employment", or "employs" refers to services performed by an individual for compensation. The terms do not refer to services performed by an individual who volunteers, including an individual who provides assistance and receives an allowance, a stipend, or other support under the federal Foster Grandparent Program (42 U.S.C. 66(H)(B)).

SECTION 9. IC 12-17.2-3.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 3.5. A child care provider that is not licensed under IC 12-17.2-4 or IC 12-17.2-5 is not eligible to receive a voucher payment.**

SECTION 10. IC 12-17.2-3.5-4 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 4: (a) A provider is ineligible to receive a voucher payment if the provider:

(1) has been convicted of a:

(A) felony:

- (i) related to the health or safety of a child;
- (ii) that is a sex offense (as defined in IC 11-8-8-5.2);
- (iii) that is a dangerous felony; or
- (iv) that is not a felony otherwise described in items (i) through (iii); and less than ten (10) years have elapsed from the date the person was discharged from probation; imprisonment; or parole; whichever discharge date is latest;

(B) misdemeanor related to:

- (i) the health or safety of a child; or
- (ii) welfare fraud;

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35, or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child;

(2) allows an individual who has been convicted of a crime specified under subdivision (1) to reside with the provider; if the



provider operates a child care program in the provider's home;  
 (3) employs an individual or allows an individual to volunteer  
 who:

(A) has direct contact with a child who is receiving child care  
 from the provider; and

(B) has been convicted of a crime specified in subdivision (1);

(4) has had a revocation of eligibility under this chapter during  
 the immediately preceding two (2) years; or

(5) fails to meet the requirements of this chapter.

(b) A provider whose:

(1) license under IC 12-17.2-4 or IC 12-17.2-5; or

(2) compliance with this chapter;

is subject to an enforcement action is ineligible to receive a voucher  
 payment; regardless of whether the provider meets the requirements of  
 this chapter; until the outcome of any proceeding under IC 4-21.5  
 reflects a final determination that the provider's license or eligibility is  
 in good standing.

(c) If the division decertifies a provider under this chapter, the  
 provider:

(1) may reapply for eligibility to receive a voucher payment at any  
 time that the provider is able to demonstrate compliance with this  
 chapter; and

(2) is not eligible to receive a voucher payment under this chapter  
 until the provider receives notice from the division that the  
 provider's application under subdivision (1) has been approved.

SECTION 11. IC 12-17.2-3.5-4.1 IS REPEALED [EFFECTIVE  
 JULY 1, 2014]. Sec. 4.1. (a) This section applies to the following:

(1) A provider; if the provider is an individual:

(2) If a provider operates a child care program in the provider's  
 home; an individual who resides with the provider and who is at  
 least eighteen (18) years of age.

(3) An individual who:

(A) is employed; or

(B) volunteers;

at the facility where a provider operates a child care program.

(b) If information used by the division under IC 31-33-26-16(a)(10)  
 or obtained by the division under section 18 of this chapter indicates  
 that an individual described in subsection (a) has been named as a  
 perpetrator, the following are ineligible to receive a voucher payment:

(1) The individual:

(2) A provider in whose home the individual resides if the  
 provider operates a child care program in the provider's home.

(3) A provider that:

(A) employs the individual; or

(B) allows the individual to volunteer;

at the facility where the provider operates a child care program.



SECTION 12. IC 12-17.2-3.5-5 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 5: (a) A provider shall have:

- (1) working smoke detectors that meet the standards adopted by rule for smoke detectors in licensed child care homes; and
- (2) hot and cold running water;

in the area of the facility where the provider operates a child care program.

(b) A provider shall meet sanitation standards for bathrooms and handwashing, as established by the division.

SECTION 13. IC 12-17.2-3.5-5.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 5.5: (a) A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.

(b) A provider who cares for children who are less than twelve (12) months of age shall:

- (1) complete the training course provided or approved by the division under IC 12-17.2-2-1(10) concerning safe sleeping practices; and
- (2) ensure that all caregivers of children who are less than twelve (12) months of age follow safe sleeping practices.

SECTION 14. IC 12-17.2-3.5-6 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 6: (a) A provider who is an individual shall have an intradermal tuberculosis test before the provider is eligible for a voucher payment.

(b) A provider shall assure that an individual who is at least eighteen (18) years of age and:

- (1) who, if the provider operates a child care program in the provider's home, resides with the provider; or
- (2) who:

- (A) is employed; or
- (B) volunteers;

as a caregiver at the facility where the provider operates a child care program;

has an intradermal tuberculosis test before the individual resides with the provider or is employed or allowed to volunteer as a caregiver.

(c) A provider shall maintain documentation of an annual health assessment by a physician reflecting the results of symptom screening for tuberculosis for:

- (1) the provider, if the provider is an individual; and
- (2) an individual described in subsection (b);

who has a history of latent or active tuberculosis.

(d) A provider shall provide the results of the tests and screening required under this section to the division upon request.

SECTION 15. IC 12-17.2-3.5-7 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 7: (a) A provider shall have written plans for notifying parents regarding the following:

- (1) illness, serious injury, or death of the provider.



(2) Care in an emergency.

(3) Emergency evacuation.

The plan required under subdivision (3) must be posted in a conspicuous location in the facility where the provider operates a child care program.

(b) A provider shall:

(1) maintain a written child discipline policy;

(2) ensure that all employees and volunteers follow the child discipline policy;

(3) provide to the parent or legal guardian of each child cared for by the provider a written copy of the child discipline policy; and

(4) maintain in each child's file a copy of the child discipline policy that has been signed by the parent or legal guardian described in subdivision (3).

(c) A provider shall allow unscheduled visits by a parent or legal guardian to a facility where the provider operates a child care program during the hours the child care program is in operation.

SECTION 16. IC 12-17.2-3.5-8 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 8: (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a provider shall be present at all times when a child is in the care of the provider.

(b) The following apply to an individual who is employed or volunteers as a caregiver at a facility where a provider operates a child care program:

(1) The individual shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.

(2) If the individual is:

(A) at least eighteen (18) years of age, the individual may act as a caregiver without supervision of another caregiver; or

(B) less than eighteen (18) years of age, the individual may act as a caregiver only if the individual:

(i) is at least fourteen (14) years of age; and

(ii) is, at all times when child care is provided, directly supervised by a caregiver who is at least eighteen (18) years of age.

(3) The provider must verify that an employee or a volunteer has received training concerning child abuse detection and prevention.

(4) Before beginning employment or volunteer duties, the individual must receive a formal orientation to the facility and the child care program.

(c) A provider shall:

(1) maintain at the facility where the provider operates a child care program documentation of all training required by this section; and





(2) make the documentation available to the division upon request.

SECTION 17. IC 12-17.2-3.5-9 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 9: A provider shall have at least one (1) working telephone in each facility where the provider operates a child care program.

SECTION 18. IC 12-17.2-3.5-10 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 10: (a) A facility where a provider operates a child care program must have two (2) exits that:

(1) do not require passage through a:

(A) garage; or

(B) storage area;

where hazardous materials are stored;

(2) are not windows;

(3) are on different sides of the facility;

(4) are not blocked; and

(5) are operable from the inside without the use of a key or any special knowledge.

(b) A provider shall:

(1) conduct monthly documented fire drills:

(A) in accordance with the rules of the fire prevention and building safety commission; and

(B) that include complete evacuation of all:

(i) children; and

(ii) adults who provide child care;

in the facility;

(2) maintain documentation of all fire drills conducted during the immediately preceding twelve (12) month period; including:

(A) the date and time of the fire drill;

(B) the name of the individual who conducted the fire drill;

(C) the weather conditions at the time of the fire drill; and

(D) the amount of time required to fully evacuate the facility; and

(3) maintain a two and one-half (2 1/2) pound or greater ABC multiple purpose fire extinguisher:

(A) on each floor of the facility; and

(B) in the kitchen area of the facility;

in each facility where the provider operates a child care program.

SECTION 19. IC 12-17.2-3.5-11 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 11: (a) A provider shall provide for a safe environment by ensuring that the following items are placed in areas that are inaccessible to the children in the provider's care:

(1) Firearms and ammunition.

(2) Poisons, chemicals, bleach, and cleaning materials.

(3) Medications.

(b) A provider shall do the following with respect to transporting



children away from the facility where the provider operates a child care program:

- (1) Obtain written permission from the child's parent or legal guardian to transport the child;
- (2) Ensure that the child is transported only by an employee or a volunteer who:
  - (A) is at least eighteen (18) years of age;
  - (B) holds a valid driver's license; and
  - (C) transports the child in a properly licensed and insured motor vehicle.

SECTION 20. IC 12-17.2-3.5-11.1 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 11.1: (a) After December 31, 2002, a provider shall maintain and annually update documentation provided by the physician of each child who is cared for in a facility where the provider operates a child care program that the child has received complete age appropriate immunizations, including:

- (1) conjugated pneumococcal vaccine; and
- (2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations:

(b) A provider meets the requirement of subsection (a) if:

- (1) a child's parent:
  - (A) objects to immunizations for religious reasons; and
  - (B) provides documentation of the parent's objection;
- (2) the child's physician provides documentation of a medical reason the child should not be immunized; or
- (3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;

and the provider maintains and annually updates the documentation provided by the parent or physician under this subsection.

SECTION 21. IC 12-17.2-3.5-12 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 12: (a) Except as provided in subsection (f) and subject to subsection (g), a provider shall, at no expense to the state, do the following:

- (1) If the provider is an individual, submit the provider's fingerprints for a national criminal history background check by the Federal Bureau of Investigation;
  - (2) If the provider operates a child care program in the provider's home, require:
    - (A) the provider's spouse; and
    - (B) any individual who resides with the provider and who is:
      - (i) at least eighteen (18) years of age; or
      - (ii) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court;
- to submit fingerprints for a national criminal history background



check by the Federal Bureau of Investigation:

(3) Require any individual who:

(A) is employed or volunteers; and

(B) has direct contact with a child who is receiving child care from the provider;

to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation:

A provider shall require an individual described in subdivision (3) to submit fingerprints for a national criminal history background check before the individual is employed or allowed to volunteer and every three (3) years thereafter that the individual is continuously employed or allowed to volunteer:

(b) In addition to the requirement under subsection (a); a provider shall report to the division any:

(1) police investigations;

(2) arrests; and

(3) criminal convictions;

of which the provider is aware regarding any of the persons listed in subsection (a):

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the division receives the national criminal history background check required under subsection (a) from the state police department if:

(1) the provider:

(A) has:

(i) submitted; or

(ii) required an individual described in subsection (a)(2) or (a)(3) to submit;

fingerprints for a national criminal history background check as required under subsection (a); and

(B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer; and

(2) the local criminal history does not reveal that an individual has been convicted of a:

(A) felony:

(i) related to the health or safety of a child;

(ii) that is a sex offense (as defined in IC 11-8-8-5.2);

(iii) that is a dangerous felony; or

(iv) that is not a felony otherwise described in items (i) through (iii); and less than ten (10) years have elapsed from the date the person was discharged from probation; imprisonment; or parole; whichever discharge date is latest;

(B) misdemeanor related to the health or safety of a child;

(C) misdemeanor for operating a child care center without a



license under IC 12-17.2-4-35; or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; or of a substantially similar offense committed in another jurisdiction if the offense is directly or indirectly related to jeopardizing the health or safety of a child.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a national criminal history background check is required under this section has been convicted of a:

(1) felony:

(A) related to the health or safety of a child;

(B) that is a sex offense (as defined in IC 11-8-8-5.2);

(C) that is a dangerous felony; or

(D) that is not a felony otherwise described in clauses (A) through (C); and less than ten (10) years have elapsed from the date the person was discharged from probation, imprisonment, or parole, whichever discharge date is latest;

(2) misdemeanor related to the health or safety of a child;

(3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or of a substantially similar offense committed in another jurisdiction; if the offense is directly or indirectly related to jeopardizing the health or safety of a child; or

(4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; or of a substantially similar offense committed in another jurisdiction; if the offense is directly or indirectly related to jeopardizing the health or safety of a child; until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a national criminal history background check is required under this section to report any criminal convictions of the individual to the provider.

(f) Notwithstanding IC 10-13-3-28, the state police department may not charge a church or religious society any fees or costs (other than fees or costs charged by the Federal Bureau of Investigation or a private entity) for responding to a request for a release of a national criminal history background check record of a prospective or current employee or a prospective or current volunteer of a child care ministry registered under IC 12-17.2-6 if the conditions set forth in IC 10-13-3-36(f) are met.

(g) A provider that holds a license or registration under this article



on July 1, 2013; shall, at no expense to the state, meet the requirements under subsection (a) not later than July 1, 2014.

SECTION 22. IC 12-17.2-3.5-12.1 IS REPEALED [EFFECTIVE JULY 1, 2014]. Sec. 12-1. (a) A provider shall, at no expense to the state, maintain and make available to the division upon request a copy of drug testing results for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
  - (A) is employed; or
  - (B) volunteers;
 as a caregiver at the facility where the provider operates a child care program.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
  - (A) use of:
    - (i) tobacco;
    - (ii) alcohol; or
    - (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
  - (B) use or possession of an illegal substance;
 is prohibited in the facility where the provider operates a child care program when child care is being provided.

(2) That drug testing of individuals who serve as caregivers will be:

- (A) performed based on a protocol established or approved by the division; and
- (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) A provider that is a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
  - (A) use of:
    - (i) tobacco; or
    - (ii) a potentially toxic substance in a manner other than the substance's intended purpose; and
  - (B) use or possession of alcohol or an illegal substance;
 is prohibited in the facility where the provider operates a child care program when child care is being provided.
- (2) That drug testing of individuals who serve as caregivers will



1 be:

2 (A) performed based on a protocol established or approved by  
3 the division; and

4 (B) required if an individual is suspected of noncompliance  
5 with the requirements specified under subdivision (1);

6 (d) If:

7 (1) the drug testing results obtained under subsection (a); (b); or  
8 (c) indicate the presence of a prohibited substance described in  
9 subsection (b)(1)(A)(ii); (b)(1)(A)(iii); (b)(1)(B); (c)(1)(A)(ii); or  
10 (c)(1)(B); or

11 (2) an individual refuses to submit to a drug test;

12 the provider is ineligible to receive a voucher payment until the  
13 individual is suspended or terminated from employment or volunteer  
14 service at the facility or no longer resides with the provider.

15 (e) A provider that suspends an individual described in subsection  
16 (d) shall maintain a written policy providing for reinstatement of the  
17 individual following rehabilitation and drug testing results that are  
18 negative for a prohibited substance described in subsection  
19 (b)(1)(A)(ii); (b)(1)(A)(iii); (b)(1)(B); (c)(1)(A)(ii); or (c)(1)(B);

20 (f) Drug testing results obtained under this section are confidential  
21 and may not be disclosed for any purpose other than the purpose  
22 described in this section.

23 SECTION 23. IC 12-17.2-3.5-14 IS REPEALED [EFFECTIVE  
24 JULY 1, 2014]. Sec. 14. (a) Notice of a determination made under this  
25 chapter must be provided under IC 4-21.5-3-6.

26 (b) A person affected by a determination made under this chapter  
27 may seek administrative review under IC 4-21.5-3-7.

28 SECTION 24. IC 12-17.2-3.5-15 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. The division ~~shall~~  
30 **may** adopt rules under IC 4-22-2 to implement this chapter.

31 SECTION 25. IC 31-33-26-16, AS ADDED BY P.L.138-2007,  
32 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2014]: Sec. 16. (a) A person or an organization may have  
34 access to information contained in the index as follows:

35 (1) A law enforcement agency may have access to a substantiated  
36 report for purposes of investigating or criminally prosecuting a  
37 person identified as a perpetrator of child abuse or neglect.

38 (2) A child care provider, upon submitting a written consent for  
39 release of information signed by an individual who:

40 (A) is employed by or who has applied for employment with  
41 the child care provider;

42 (B) has volunteered to provide services to the child care  
43 provider in a capacity that would place the individual in direct  
44 contact, on a regular and continuous basis, with children who  
45 are or will be under the direct supervision of the child care  
46 provider; or



- 1 (C) is at least eighteen (18) years of age and resides in the  
 2 home of the child care provider;  
 3 may have access to any information relating to a substantiated  
 4 report of child abuse or neglect that names the employee,  
 5 applicant, volunteer, or household resident as the perpetrator of  
 6 child abuse or neglect.
- 7 (3) A person may have access to any information that is contained  
 8 in the index pertaining to the person, with protection for the  
 9 identity of:
- 10 (A) a person who reports the child abuse or neglect; and  
 11 (B) any other appropriate person.
- 12 (4) A person or an agency to whom child abuse and neglect  
 13 reports are available under IC 31-33-18 may have access to  
 14 information contained in the index.
- 15 (5) Representatives of the division of family resources designated  
 16 by the director of the division may have access to and use any  
 17 information relating to a substantiated report of child abuse or  
 18 neglect that would constitute a basis for denial or revocation of a  
 19 license for a child care center under IC 12-17.2-4 or a child care  
 20 home under IC 12-17.2-5.
- 21 (6) Representatives of the department designated by the director  
 22 may have access to and use any information relating to a  
 23 substantiated report of child abuse or neglect that would  
 24 constitute a basis for denial or revocation of a license for a child  
 25 caring institution, foster family home, group home, or child  
 26 placing agency under IC 31-27.
- 27 (7) Any representative of the department, a court having juvenile  
 28 jurisdiction, and any party in a case under IC 31-34 or IC 31-37  
 29 may have access to and use any information relating to a  
 30 substantiated report of child abuse or neglect in connection with  
 31 a determination of an appropriate out of home placement for a  
 32 child under any applicable provision of IC 31-34 or IC 31-37 that  
 33 requires a criminal history check (as described in IC 31-9-2-22.5)  
 34 concerning any person.
- 35 (8) The department shall provide any information contained in a  
 36 substantiated report of child abuse or neglect that is included in  
 37 the index to an authorized agency of another state that requests  
 38 information concerning a prospective foster or adoptive parent, or  
 39 any other adult living in the home of a prospective foster or  
 40 adoptive parent, in accordance with 42 U.S.C. 671(a)(20)(C).
- 41 (9) The department shall transmit or provide to a national index  
 42 of substantiated cases of child abuse or neglect established in  
 43 accordance with 42 U.S.C. 16990:
- 44 (A) a copy of any substantiated report and related information  
 45 entered into the index; and  
 46 (B) information concerning expungement or amendment of



- 1           any substantiated report as provided in section 14 or 15 of this  
2           chapter.
- 3           ~~(10) To determine the eligibility of a child care provider to~~  
4           ~~receive a voucher payment (as defined in IC 12-17.2-3.5-3); the~~  
5           ~~division of family resources may use information contained in the~~  
6           ~~index concerning whether a child has been found by a court to be~~  
7           ~~a child in need of services based on a report of child abuse or~~  
8           ~~neglect naming an individual described in IC 12-17.2-3.5-4.1(a)~~  
9           ~~as a perpetrator.~~
- 10          (b) Except as provided in this section or in rules adopted under  
11          subsection (c), the department may not disclose information used in  
12          connection with the department's activities under this section.
- 13          (c) The department shall adopt rules under IC 4-22-2 relating to the  
14          procedure for disclosure of information described in this section.

